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Tougher penalties for selling secrets

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It was a bitter irony that during the same week we paid tribute to the members of our armed forces who 40 years ago, through great personal sacrifice, effected the surrender of Japan and preserved American freedom and security, we were prosecuting three former members and one member of our armed forces for undermining those principles by selling national defense secrets to the Soviet Union.

On Aug. 9, the first of what will be several trials in the Walker spy ring case came to an end as retired Lt. Cmdr. Arthur J. Walker was found guilty of espionage on all seven counts with which he had been charged. Trials will commence in the near future for other members of the alleged ring, including retired Senior Chief Radioman Jerry A. Whitworth, retired Chief Warrant Officer John A. Walker Jr. — the alleged ringleader — and John Walker's son, Seaman Michael L. Walker, who was on active duty at the time of his alleged espionage activities.

Since the arrest of John Walker on May 20 and the subsequent arrests of his alleged co-conspirators, various measures have been proposed to curb such espionage activity in the future. Some measures, such as the Department of Defense decision to reduce the number of authorized clearances, seek to focus on the problem by reducing the size of the population that has actual access to classified material. Other measures, such as congressional support of the death penalty for those convicted of peacetime espionage by military courts, seek to focus on penalties. (Under existing laws at the time of the alleged Walker espionage activity, the most severe penalty that can be imposed on any of the alleged conspirators is life imprisonment.)

While there is almost unanimous agreement that the former measures represent an important first step in dealing with the problem, there has been much discussion and disagreement about the latter measures. The familiar argument is made once again — just as it has been in recent years in connection with efforts to reinstitute capital punishment — that the death penalty does not serve as a deterrent to objectionable behavior.

There are three main reasons why one engages in espionage: (1) loyalty to another country or ideal, (2) revenge against the victim state, and (3) financial gain. Interestingly, citizens of Communist bloc nations who spy against their country appear, for the most part, to be motivated by a commitment to ideals different from those of their own country, while their Free World counterparts appear to be motivated more by greed.

But it is clear that our society's tolerance of a specific act of espionage varies directly with the reason why the act in question was originally undertaken. For example, more seem willing to accept the spy who acts out of loyalty to his country or out of a sense of commitment to other ideals. A smaller number seem willing to accept the spy whose better judgment is, perhaps, temporarily impaired by blind emotion, such as revenge.

But our society contains very few who are willing to tolerate the spy whose motivation stems primarily from financial gain. The majority of the people we have interviewed believe it is the spy who puts his personal gain above the security of his country that should be held most accountable for his actions.

In response to this majority position, legislation is before Congress that seeks the public execution, by firing squad, of anyone convicted of espionage for financial gain. We fully support such a measure. The spy motivated by financial gain fully understands the nature of his act and why he has undertaken to perform it; he has weighed both the risks and the rewards, and has opted in favor of self-gratification over the welfare and security of his countrymen.

The claim that imposing the death penalty for such an act of espionage will not serve as a deterrent, we feel, lacks merit. When espionage is committed for financial gain, it is committed by a rational individual who knows he has chosen between right and wrong. In opting to violate the espionage laws, he has perceived that the risks of getting caught are low, the rewards are high, and the retribution society will exact should the act be discovered is not great.

This perception has been fostered by a country which, ever since the execution of Julius and Ethel Rosenberg in June 1953, has been suprisingly tolerant toward those who have sold its defense secrets. That tolerance has continued — inexcusably, we believe — despite the fact that American lives, in some instances, have subsequently been lost due to the disclosure of classified information. (Such was the case of Joseph G. Helmich, who was convicted in 1980 of supplying code secrets to the Soviets in the 1960s, enabling them to monitor U.S. military operations in Vietnam and contributing to the loss of many American lives there.)

The sale of U.S. defense secrets for financial gain — like most other kinds of behavior — can be controlled only when the perception of retribution is high and the nature of that promised retribution is severe. Such an approach has been effective in holding down the number of capital crimes committed in many Middle East countries, where the penalty imposed for those crimes includes death or mutilation.

For more than two centuries Americans have died on battlefields the world over to preserve our freedom and security. In battles yet to be fought, it is probable that many American lives may be lost due to classified information that someone has sold to our enemies.

Is it unfair to demand, in exchange, the life of one who has endangered our freedom and security or has increased the risk to our fighting men on the battlefield by selling this country's defense secrets to an unfriendly nation? We believe not.

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